

	DISTRICT OF COLUMBIA DEPARTMENT OF CORRECTIONS POLICY AND PROCEDURE		EFFECTIVE DATE:	May 1, 2014	Page 1 of 11
			SUPERSEDES:	4020.3D May 8, 2013	
			OPI:	DIRECTOR	
			REVIEW DATE:	May 1, 2015	
			Approving Authority	Thomas Faust Director	
	SUBJECT:	GENDER CLASSIFICATION AND HOUSING			
	NUMBER:	4020.3E			
Attachments:	Attachment A – Gender Housing Request Form				

SUMMARY OF CHANGES:

Section	Change
Changes to Policy	<i>Significant changes throughout the policy. References to “Transsexual” or “Transgendered” were remove and replaced with “Transgender”.</i>
	<i>“Attachment A, Gender Housing Request Form has been revised”.</i>

APPROVED:



Thomas Faust, Director

5/1/2014

Date Signed

DISTRICT OF COLUMBIA DEPARTMENT OF CORRECTIONS POLICY AND PROCEDURE		EFFECTIVE DATE:	May 1, 2014	Page 2 of 11
		SUPERSEDES:	4020.3D May 8, 2013	
		REVIEW DATE:	May 1, 2015	
SUBJECT:	GENDER CLASSIFICATION AND HOUSING			
NUMBER:	4020.3E			
Attachments:	Attachment A – Gender Housing Request Form			

1. **PURPOSE AND SCOPE.** To establish procedures on providing the appropriate treatment of transgender, intersex, and gender variant persons who are incarcerated and housed within the District of Columbia Department of Corrections (DOC).

2. **POLICY**

- a. It is DOC policy to provide services in a humane and respectful manner to transgender and intersex inmates while ensuring that they are processed and housed safely and efficiently to the greatest extent possible. For the safety, security and order of the facility, the DOC classifies and houses male and female offenders in separate housing units. DOC shall classify an inmate who has male genitals as a male and one who has female genitals as a female, unless otherwise recommended by the Transgender Housing Committee and approved in accordance with this policy.
- b. In order to address the specific needs of transgender individuals, upon initial intake at Receiving and Discharge (R&D), or at any time that an inmate makes known to DOC staff their transgender or intersex status, staff shall follow the guidelines in this policy in order to determine the inmate's housing based on his or her safety/security needs, housing availability, gender identity and genitalia, if:
 - 1) An inmate indicates that they are transgender or intersex at any time during their custody.
 - 2) An inmate's gender identity, appearance, overt expression, or behavior differs from their assigned sex at birth.
 - 3) A gender designation made by any public entity, government agency or law enforcement agency indicates that the inmate is transgender.

3. **NOTICE OF NON-DISCRIMINATION**

- a. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code § 2-1401.01 et seq., (Act) the District of Columbia does not discriminate on the basis of race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, status as a victim of an intra-family offense, or place of residence or business. Sexual harassment is a form of sex discrimination that is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action.

DISTRICT OF COLUMBIA DEPARTMENT OF CORRECTIONS POLICY AND PROCEDURE		EFFECTIVE DATE:	May 1, 2014	Page 3 of 11
		SUPERSEDES:	4020.3D May 8, 2013	
		REVIEW DATE:	May 1, 2015	
SUBJECT:	GENDER CLASSIFICATION AND HOUSING			
NUMBER:	4020.3E			
Attachments:	Attachment A – Gender Housing Request Form			

4. DIRECTIVES AFFECTED

a. Directives Rescinded

PP 4020.3D Gender Classification and Housing (05/08/13)

b. Directives Affected

PS 1280.2 Reporting and Notification Procedures for Significant Incidents and Extraordinary Occurrences

PP 4090.3 Classification (Program Review)

PM 8010.1 Work Release Program

OM 13-007 Elimination of Sexual Abuse, Sexual Assault, and Sexual Misconduct

5. AUTHORITY

- a. Farmer v. Brennan, 511 U.S. 825 (1994).
- b. Sandin v. Conner, 515 U.S. 472 (1995).
- c. DC Code § 24-211.02, Powers; Promulgation of Rules.

6. STANDARDS REFERENCED

- a. American Correctional Standard (ACA) 4th Edition, Standards for Administration of Correctional Agencies, 4th Edition 4-ALDF-4D-22-4.
- b. Prison Rape Elimination Act of 2003, Department of Justice, 28 CFR Part 115

7. DEFINITIONS

- a. **Gender Identity.** One's internal sense of being male, female or in between. Since gender identity is internal, one's gender identity is not necessarily visible to others.
- b. **Gender Expression.** How one represents/expresses their gender identity to others; a combination of behavior, dress, hairstyles, voice, body

DISTRICT OF COLUMBIA DEPARTMENT OF CORRECTIONS POLICY AND PROCEDURE		EFFECTIVE DATE:	May 1, 2014	Page 4 of 11
		SUPERSEDES:	4020.3D May 8, 2013	
		REVIEW DATE:	May 1, 2015	
SUBJECT:	GENDER CLASSIFICATION AND HOUSING			
NUMBER:	4020.3E			
Attachments:	Attachment A – Gender Housing Request Form			

characteristics or other gender-related behaviors.

- c. **Intersex.** A set of medical conditions that features a congenital irregularity of the reproductive and sexual system. A person with an intersex condition is born with sex chromosomes, external genitalia, and/or an internal reproductive system that is not considered “standard” for either male or female.
 - d. **Sexual Orientation.** One’s romantic, emotional and/or sexual attraction to members of the same, opposite or both sexes. Includes male or female homosexuality, heterosexuality, and bisexuality.
 - e. **Transgender.** An umbrella term used to describe someone whose gender identity, expression or behavior is different from that typically associated with their assigned sex at birth.
 - f. **Transgender Housing Committee.** Refers to a committee established by the D.C. Department of Corrections comprised of a medical practitioner, a mental health clinician, a correctional supervisor, a Chief Case Manager or designee and a DOC approved volunteer who is a member of the transgender community who is experienced and knowledgeable about transgender issues or an acknowledged expert in transgender affairs. The committee shall determine the transgender inmate’s housing assignment after review of all of the inmate records and assessments, and an interview with the inmate during which the inmate’s own opinion of his/her vulnerability in the jail population shall be considered.
 - g. **Transgender Advisory Committee.** The Transgender Advisory Committee (TAC) serves as a liaison between the DOC, the transgender community and its stakeholder organizations. The objectives of the TAC are to ensure open communication between DOC and the transgender community, maintain ongoing dialogue on issues/problems facing the transgender community, and promote public awareness of the programs and services offered for the transgender community.
 - h. **Gender Variant.** Refers to any person whose expression of gender, (masculinity and femininity) does not conform to the dominant gender norms of Western culture.
8. **PROCEDURES.** In all circumstances, staff shall only ask questions related to gender identity or gender expression for the purpose of making intake and housing assignments, classification, programming, providing health care and health

DISTRICT OF COLUMBIA DEPARTMENT OF CORRECTIONS POLICY AND PROCEDURE		EFFECTIVE DATE:	May 1, 2014	Page 5 of 11
		SUPERSEDES:	4020.3D May 8, 2013	
		REVIEW DATE:	May 1, 2015	
SUBJECT:	GENDER CLASSIFICATION AND HOUSING			
NUMBER:	4020.3E			
Attachments:	Attachment A – Gender Housing Request Form			

assessments, or where information is necessary to ensure the safety, security and order of inmates/residents, staff, visitors, the facility, and the community.

Questions related to gender identity or gender expression shall be asked in a respectful manner to preserve confidentiality as well as human dignity and avoid subjecting the inmate/residents to abuse, humiliation or ridicule.

Searches or physical examination of transgender or intersex inmates/detainees by any staff member or other than a physician for the sole purpose of determining the inmate/detainee's genital status is strictly prohibited.

9. **INITIAL INTAKE.** Upon initial intake in Receiving and Discharge (R&D), if an inmate's gender-related expression, identity, appearance, or behavior differs from their biological sex, staff shall place transgender or intersex inmates in a cell by themselves during the intake process for their safety and security and the safety, security and order of the facility.

Staff shall:

- a. Review commitment documents for gender assignment or any notification that identifies the inmate as transgender or "vulnerable."
- b. If, after reviewing commitment documents and other notifications, staff still cannot determine the assigned sex at birth, they shall ask the inmate for verification of the sex of the genitalia. Staff must conduct this inquiry privately and in a professional manner to preserve confidentiality and avoid subjecting the inmate to abuse or ridicule.
- c. The inmate shall be taken to medical where the inmate's genital status should be determined during a medical interview, by reviewing medical records, or if necessary, by learning that information as part of a broader medical examination conducted in private by a medical practitioner.
- d. If the inmate's physical sex cannot be determined, and/or the inmate refuses to cooperate, staff shall notify a supervisor immediately. The inmate shall be taken to medical where the inmate's genital status should be determined during a medical interview, by reviewing medical records, or if necessary, by learning that information as part of a broader medical examination conducted in private by a medical practitioner. Any inmate refusing to receive a complete physical examination will be placed in protective custody.
- e. Upon determination of gender by inmate verification (a and b, above) or medical exam (c, above), the inmate shall be treated as a protective custody

DISTRICT OF COLUMBIA DEPARTMENT OF CORRECTIONS POLICY AND PROCEDURE		EFFECTIVE DATE:	May 1, 2014	Page 6 of 11
		SUPERSEDES:	4020.3D May 8, 2013	
		REVIEW DATE:	May 1, 2015	
SUBJECT:	GENDER CLASSIFICATION AND HOUSING			
NUMBER:	4020.3E			
Attachments:	Attachment A – Gender Housing Request Form			

inmate for the duration of the intake process. This will ensure that the inmate is escorted by staff to the appropriate unit to complete the intake process in a manner consistent with that custody's requirements, including private strip search procedures.

- f. R&D staff shall accurately record the inmate as transgender or intersex and the inmate's gender identity and apparent biological gender in JACCS and document the incident consistent with PS 1280.2, *Reporting and Notification Procedures for Significant Incidents and Extraordinary Occurrences*.
- g. All intake documentation shall include the inmate's birth and/or legal name, the aka (also known as), or the name the inmate has been booked under by the arresting agency.
- h. Inmates shall be called by their last names without reference to gender specific identifiers, such as Mr., Mrs., Miss, Ma'am, Sir or other gender specific terms used in addressing a person. Instead, the gender neutral term "Inmate" is to be used with the person's last name.

10. HOUSING

- a. After completion of the initial intake process, an inmate identified as transgender or intersex shall be afforded the opportunity to request and receive protective custody and be housed in a single cell in the intake housing unit consistent with the gender identified at intake for no more than seventy-two (72) hours, excluding weekends, holidays and emergencies, until classification and housing needs can be assessed by the Transgender Housing Committee.

In accordance with PS 4090.3, *Classification (Program Review)*, all transgender and intersex inmates will be classified and assigned housing based on their safety/security needs, housing availability, gender identity and genitalia. Intake staff shall assess the transgender and intersex inmates for potential vulnerability in the general population and refer them to the Transgender Housing Committee.

- b. As part of the housing assessment for vulnerability, the Transgender Housing Committee shall make a recommendation as to the transgender inmate's housing assignment after review of all of the inmate's records and assessments, including an interview with the inmate. The Committee shall

DISTRICT OF COLUMBIA DEPARTMENT OF CORRECTIONS POLICY AND PROCEDURE		EFFECTIVE DATE:	May 1, 2014	Page 7 of 11
		SUPERSEDES:	4020.3D May 8, 2013	
		REVIEW DATE:	May 1, 2015	
SUBJECT:	GENDER CLASSIFICATION AND HOUSING			
NUMBER:	4020.3E			
Attachments:	Attachment A – Gender Housing Request Form			

- ask the inmate his or her own opinion of his or her vulnerability in the general jail population of the male or female units. This information shall be taken into consideration in determining the proper housing assignment. The Committee will attempt to reach consensus, ultimately relying on majority vote when needed. A written decision by the Transgender Housing Committee shall be forwarded to the Warden for approval and shall be maintained in the inmate's institutional record and scanned into PaperClip. An inmate identified as transgender may waive the Transgender Housing Committee hearing and be housed according to their assigned sex at birth by selecting Option #1 and signing the Gender Housing Request Form (Attachment A).
- c. The Transgender Housing Committee housing assessment shall address whether the inmate will be housed in the general population or in a protective custody unit of the gender consistent with their gender identity or genitalia. If the Warden's opinion differs from the recommendation of the Transgender Housing Committee, the Warden shall justify the assignment in writing to the Director for final determination. Transgender and intersex inmates have the same right to appeal housing assignments as all inmates consistent with PS 4090.3, *Classification (Program Review)*.
 - d. If it is decided that the inmate can be housed in the general population, the inmate shall be transferred to the general population as determined by the Classification Committee after completion of initial classification and upon housing availability. If it is determined that the inmate requires protective custody, he or she shall be placed in such a unit and his or her custody shall be reviewed by the Transgender Housing Committee consistent with standard DOC policy. Consistent with standard DOC policy, transgender and intersex inmates may be placed in communal protective custody pursuant to the determination of the Transgender Housing Committee and subsequent reviews of inmate status.
 - e. A transgender or intersex inmate will be housed in protective custody when there is reason to believe the inmate presents a heightened risk to him/herself or to others or where the inmate fears he or she will be vulnerable to victimization in any other housing setting. This assignment shall be only for the period during which the heightened risk and/or fear exists. Inmates in administrative segregation and protective custody shall have access to programs and services consistent with that status.

DISTRICT OF COLUMBIA DEPARTMENT OF CORRECTIONS POLICY AND PROCEDURE		EFFECTIVE DATE:	May 1, 2014	Page 8 of 11
		SUPERSEDES:	4020.3D May 8, 2013	
		REVIEW DATE:	May 1, 2015	
SUBJECT:	GENDER CLASSIFICATION AND HOUSING			
NUMBER:	4020.3E			
Attachments:	Attachment A – Gender Housing Request Form			

- f. An inmate who is housed in a unit of the gender not consistent with their gender identity or expression and requests to be housed in a unit consistent with their gender identity or expression shall select Option #2 and sign the Gender Housing Request Form (Attachment A).
- g. When clinically indicated by appropriate medical staff, transgender inmates on hormone therapy may continue to receive hormone treatment.
- h. Transgender or intersex inmates will be provided standard jail attire and privileges consistent with the gender of their housing assignment. Inmates under hormone therapy with secondary sexual characteristics (such as breasts) shall be provided appropriate undergarments (such as a bra) when clinically indicated by appropriate medical staff.
- i. While incarcerated with the D.C. Department of Corrections, transgender and intersex inmates shall not be discriminated against in regard to their participation in services, programs, or privileges and shall not be subjected to verbal or physical harassment or a hostile environment by the staff or fellow inmates. Individuals who are found to engage in such misconduct shall be subject to appropriate disciplinary action.
- j. All searches of transgender or intersex inmates shall be conducted in a professional and respectful manner, and in the least intrusive manner possible, consistent with DOC policy outside of the presence of inmates or non-critical staff to the degree practicable.

11. CONTRACT HALFWAY HOUSE HOUSING PROCEDURES

- a. **INITIAL INTAKE.** Upon intake orientation, if a resident's gender-related expression, identity, appearance, or behavior differs from their assigned sex at birth, staff shall make immediate notification to the DOC Office of Community Corrections.

Staff shall:

- 1) Review commitment documents for gender assignment or any notification that identifies the resident as transgender or "vulnerable."
- 2) If after reviewing commitment documents and other notifications, including prior housing assignments while incarcerated, the staff still cannot determine the biological sex, the staff shall ask the resident for

DISTRICT OF COLUMBIA DEPARTMENT OF CORRECTIONS POLICY AND PROCEDURE		EFFECTIVE DATE:	May 1, 2014	Page 9 of 11
		SUPERSEDES:	4020.3D May 8, 2013	
		REVIEW DATE:	May 1, 2015	
SUBJECT:	GENDER CLASSIFICATION AND HOUSING			
NUMBER:	4020.3E			
Attachments:	Attachment A – Gender Housing Request Form			

verification of the sex of the genitalia. Staff must conduct this inquiry privately and in a professional manner to preserve confidentiality in order to avoid subjecting the resident to abuse or ridicule.

****Under NO circumstances shall staff ask for visual confirmation of sex.***

- 3) Halfway House staff shall accurately record the inmate as transgender or intersex and the inmate's gender identity and apparent biological gender in the resident's case file and document the incident consistent with PS 1280.2, *Reporting and Notification Procedures for Significant Incidents and Extraordinary Occurrences*.
- 4) All intake documentation shall include the inmate's birth and/or legal name or the name the inmate has been booked under by the arresting agency.
- 5) Inmates shall be called by their last names without references to gender specific identifiers such as Mr., Mrs., Miss, Ma'am, Sir or other gender specific terms used in addressing a person. Instead, the gender neutral term "Resident" is to be used with the last name.

b. HOUSING

- 1) All transgender and intersex residents will be assigned housing based on their safety/security needs, housing availability, gender identity and genitalia. Halfway House staff shall assess the transgender and intersex inmates for potential vulnerability in the Halfway House. If potential vulnerability is a concern, the Halfway House staff will place the resident in a single room or make any necessary accommodations. The DOC Office of Community Corrections will be notified immediately. The DOC Office of Community Corrections will make a referral to the Transgender Housing Committee.
- 2) As part of the housing assessment for vulnerability, the Transgender Housing Committee shall recommend the transgender or intersex resident's housing assignment after review of all of the resident's records and assessments and an interview with the resident. The Committee shall ask the resident his or her own opinion of his or her vulnerability in the male and female halfway houses. This information shall be taken into consideration in determining the proper housing assignment. The Committee will attempt to reach consensus, ultimately relying on majority vote when needed. A written recommendation by the Transgender

DISTRICT OF COLUMBIA DEPARTMENT OF CORRECTIONS		EFFECTIVE DATE:	May 1, 2014	Page 10 of 11
POLICY AND PROCEDURE		SUPERSEDES:	4020.3D May 8, 2013	
		REVIEW DATE:	May 1, 2015	
SUBJECT:	GENDER CLASSIFICATION AND HOUSING			
NUMBER:	4020.3E			
Attachments:	Attachment A – Gender Housing Request Form			

Housing Committee shall be forwarded to the DOC Community Corrections Office Chief for approval and shall be maintained in the resident's institutional record.

- 3) The Transgender Housing Committee housing assessment shall make a recommendation to the DOC Community Corrections Office Chief as to whether the resident should be housed in the halfway house or returned to the Central Detention Facility (CDF) or Correctional Treatment Facility (CTF).
 - 4) If the decision of the Office Chief differs from the Transgender Housing Committee's written recommendation, the Office Chief shall justify his/her opinion in writing to the Director for final determination. Transgender and intersex residents have the right to appeal housing assignments.
 - 5) When clinically indicated as determined by appropriate medical staff, residents may access their primary health care provider for hormone treatment and therapy.
 - 6) Transgender and intersex residents shall wear appropriate clothing according to their assigned housing. Unisex clothing is permissible in both male and female halfway houses as set forth in PM 8010.1, *Work Release Program*.
- c. While incarcerated with the D.C. Department of Corrections, transgender and intersex residents shall not be discriminated against in regard to their participation in services, programs, or benefits and shall not be subjected to verbal or physical harassment or a hostile environment by the staff or residents. Individuals who are found to engage in such abuse shall be subject to appropriate disciplinary action.
 - d. To the degree practicable, searches of transgender or intersex residents shall be conducted in a manner consistent with DOC policy outside the presence of other residents or non-critical staff.

DISTRICT OF COLUMBIA DEPARTMENT OF CORRECTIONS POLICY AND PROCEDURE		EFFECTIVE DATE:	May 1, 2014	Page 11 of 11
		SUPERSEDES:	4020.3D May 8, 2013	
		REVIEW DATE:	May 1, 2015	
SUBJECT:	GENDER CLASSIFICATION AND HOUSING			
NUMBER:	4020.3E			
Attachments:	Attachment A – Gender Housing Request Form			

Attachment

Attachment A – Gender Housing Request Form

DOC/PP4020.3E/5/1/14